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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/623,200

07/18/2003

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21874 7590 01/12/2007
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EXAMINER

MULLEN, KRISTEN DROESCH

ART UNIT

PAPER NUMBER

3766

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/623,200

Applicant(s)

OSYPKA, THOMAS P.

Examiner

Kristen Mullen

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3766

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/18/06 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 4-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clemens et al. (2002/0077684) in view of Westlund et al. (2002/0077683).

Regarding claim 1, Clemens shows an elongated lead body having opposed proximal and distal end portions and having a first and second lumen extending therethrough; an electrode assembly (16) operatively associated with the distal end portion of the lead body; a connector assembly (50) operatively associated with the proximal end portion of the lead body, the connector assembly having an engagement stem (54) depending proximally therefrom and the first and second lumens extend through the engagement stem of the connector assembly and including a proximal tip portion and a detachable ported connector fitting (58) having a main body portion (54) and a branch portion (61) which extends from the main branch portion, and the

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main body portion has an engagement bore at the distal end and a proximal receiving section configured to receive the proximal tip portion of the engagement stem and the main body portion (54) of the ported connector fitting having a primary passageway extending therethrough having at least one passageway (104) extending therethrough to align and communicate with a first lumen (114) and the branch portion (61) of the ported connector fitting having a secondary passageway extending therethrough to align and communicate with a second lumen (104) of the lead body through the engagement stem of the connector assembly when the ported connector fitting is engaged with the connector assembly (Figs. 1-2).

Although Clemens shows a connector assembly with an engagement stem (54) and ported connector with an engagement bore, and it isn't clear how they are coupled, Clemens fails to specifically show the engagement stem and engagement bore are threaded. Attention is directed to Westlund who shows a similar connector assembly (860) and ported connector (820) that utilizes threads for coupling the connector assembly and ported connector (Fig. 9). It would have been obvious to one with ordinary skill in the art at the time the invention was made to employ threads on the engagement stem and engagement bore for the coupling of the engagement stem and engagement bore of Clemens wherein so doing would amount to mere substitution of one functional equivalent for another that would work equally well on the Clemens device. MPEP 2144.06, *In re Fout*, 675 F.2d 297, 213 USPQ 532 (CCPA 1982).

Regarding claim 4, Clemens shows at least one passageway formed in the ported connector (58) fitting has a funnel-shaped inlet region (where stylet assembly 62 is introduced), but it unclear as to whether the second passageway in the ported connector fitting (61) also has a funnel shaped inlet region. It would have been an obvious matter of design choice to include a a

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second funnel shaped inlet region for the second passageway since such a modification would have involved a mere a mere duplication of parts. It has long been held that a mere duplication of parts has no patentable significance unless a new and unexpected result is produced. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

With respect to claims 5-6, Clemens shows a first lumen (114) formed in the lead body has an outlet port at the distal end of the lead body and at a second lumen (104) formed in the lead body has an outlet port (102) at a location spaced from the distal end of the lead body (Fig. 2).

Regarding claim 7, Clemens shows the electrode assembly is bipolar and includes a distal tip electrode (16) and a proximal ring electrode (20) (Fig. 2).

With respect to claim 8, Clemens shows a helical conductor coil (138, 140) extending through the lead body for connecting the electrode assembly with the connector assembly (para. [0047]).

Regarding claim 9, Clemens discloses a helical fixation screw operatively associated with the distal end of the lead body for actively securing the lead to cardiac tissue (Col. 7, line 46-51).

With respect to claim 10, Clemens shows a plurality of flexible tines (162) provided at the distal end of the lead body.

The statements of intended use have been carefully considered but are not considered to impart any further structural limitations over the prior art. The designation of one lumen as a guidewire lumen and a second lumen as a fluid delivery lumen has been deemed to be statements of intended use.

Response to Arguments

4. Applicant's arguments filed 9/18/06 have been fully considered but they are not persuasive.

Applicants have argued that neither Clemens or Westlund teach or suggest a threaded connection that facilitates an alignment and communication between the lumens of a lead body and corresponding passageways of a ported connector fitting. However, Clemens does show that a first lumen (114) is aligned and communicates with a passageway in the connector (58).

Clemens discloses this fact at paragraph [0031]. Clemens also shows that a second lumen (104) is aligned and communicates with a passageway in the connector (58). Clemens discloses this fact at paragraph [0034]. Westlund is relied upon for the teaching of a threaded connection that is a functionally equivalent means for making the connection of Clemens.

5. In response to applicant's arguments against the references individually (i.e. arguing that Westlund does not show more than one lead lumen), one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

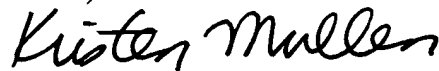
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristen Mullen whose telephone number is (571) 272-4944. The examiner can normally be reached on M-F, 10:30 am-6:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Kristen D. Mullen
Patent Examiner
Temp. Full Signatory Authority
Art Unit 3766

kdm